

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA**

RANDY HOWARD and
TRISHA HOWARD,

Plaintiffs,

v.

EMC MORTGAGE CORPORATION,

Defendant.

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CASE NO.: 09-542

COMPLAINT

INTRODUCTION

1. This complaint is filed under the Truth-In-Lending Act (TILA) 15 U.S.C. §§ 1601 et seq., and the Real Estate Settlement Procedures Act (“RESPA”) 12 U.S.C. §§ 2601 et seq., to enforce the plaintiff’s right to obtain, under these consumer protection statutes, information they has requested pertaining to his mortgage account.

JURISDICTION AND VENUE

2. Jurisdiction is conferred on this Court by 15 U.S.C. § 1640(e) and 28 U.S.C. § 1331.

PARTIES

3. Plaintiffs, Randy Howard and Trisha Howard, “the Howards” own and reside in a home at 3057 Kendale Drive, Mobile, AL 36606.

4. Defendant, EMC Mortgage Corporation (“EMC”) is incorporated in Texas and does business in this district.

5. EMC is a “servicer” as that term is defined at 12 U.S.C. § 2605(1)(2)

FACTUAL ALLEGATIONS

6. EMC is the servicer the Howards' mortgage loan.

7. The loan was originated by Bayrock Mortgage Corporation ("Bayrock"), a defunct sub-prime mortgage lender based in Georgia which originated sub-prime mortgage loans in several states, including Alabama.

8. On January 19th 2007, the Howards obtained a \$55,250 mortgage loan from Bayrock.

9. The loan is federally related and was obtained for personal, family or household purposes, namely, the refinancing of prior debts incurred for such purposes.

10. On May 12th 2009 Plaintiffs requested from EMC certain information concerning their loan including the identity of the current holder or owner of their obligation.

11. EMC has failed to provide this information as required 12 U.S.C. § 2605(e) and 15 U.S.C. § 1641(f)(2).

12. More than 60 days have elapsed since the request was made.

WHEREFORE, Plaintiffs request that the Court enter judgment in favor of Plaintiffs and against Defendant for:

- a. Statutory damages pursuant to 12 U.S.C. § 2605(f).
- b. Statutory damages pursuant to 15 U.S.C. § 1640(a);
- c. Attorney's fees, litigation expenses and costs of suit;
- d. Such other or further relief as the Court deems proper.

Respectfully submitted,

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